

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

STANISLAV BOLDYRYEV

Plaintiff,

VS.

ERIC HOLDER, Warden

Defendant.

CASE NO. 1:10-CV-2016

OPINION & ORDER

[Resolving Doc. Nos. [1](#), [10](#), & [13](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Stanislav Boldyryev files a petition for habeas corpus under [28 U.S.C. § 2241](#), seeking release from detention pending his removal to the United States, saying that his removal to his native country – the Ukraine – or any other, was not likely to occur in the foreseeable future.

[[Doc. 1.](#)] Before the Court is also a motion to dismiss, filed by the Defendant, saying that the petition is moot because Plaintiff Boldyryev has been released from custody. [[Doc. 10.](#)] The motion to dismiss is not opposed by the Plaintiff.

This matter was referred to Magistrate Judge Vecchiarelli pursuant to Local Rule 72.2. On February 4, 2011, Judge Vecchiarelli issued a Report and Recommendation that recommended this Court grant the motion to dismiss as moot and deny Boldyryev’s petition for habeas corpus. [[Doc. 13](#).] The Federal Magistrates Act requires a district court to conduct a de novo review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C.](#)

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§ 636(b)(1)(C). Parties must file any objections to a Report and Recommendation within fourteen days of service. Id.; Fed.R.Civ.P.72(b)(2). Failure to object within this time waives a party's right to appeal the district court's judgment. Thomas v. Arn, 474 U.S. 140, 145 (1985); United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate judge's report without review. See Thomas, 474 U.S. at 149.

In this case, neither party has objected to the Magistrate Judge's recommendation. Moreover, having conducted its own review of the record and the parties' briefs in this case, the Court agrees with the conclusions of Magistrate Judge Vecchiarelli and finds that the Boldryev's petition for habeas corpus is now moot.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Vecchiarelli's Report and Recommendation and incorporates it fully herein by reference, **GRANTS** the Defendant's motion to dismiss, and **DENIES** the Plaintiff's petition for habeas corpus as moot.^{1/}

IT IS SO ORDERED.

Dated: March 11, 2011

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

^{1/} In this case, notation has been placed on the docket that Plaintiff Boldryev is no longer at his last known address. [Doc. 14.] As such, a copy of the Report and Recommendation has not been served on Boldryev. Nonetheless, the Court finds that it is appropriate to grant the motion and to now adopt the Report and Recommendation. The fact that Boldryev is no longer available at his address in custody is consistent with the Defendant's representation that Boldryev has been released from custody and further weighs in favor of finding that his petition for release is now moot.